

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6348,6382, & 6467 OF 1995

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? No

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy
of the judgement? No

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?

No

PATEL SANGITABEN MANGALBHAI

Versus

GUJARAT SECONDARY EDUCATION BOARD

Appearance:

MR MUKESH R SHAH for Petitioner

MR VIJAY H PATEL for Respondent No. 1

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 02/09/96

ORAL JUDGEMENT (COMMON)

In this group of Special Civil Application under
Article 226 of the Constitution of India, the
petitioners, guardians of the students have challenged
the order of the respondent-Gujarat Secondary Education

Board whereby for using alleged unfair means, the students have been penalised by cancelling the result of Standard XII and further debarring them from appearing at any examination upto October 1995.

2. The students were served with a notice dated 10.5.1995 to show cause as to why their results be not cancelled and further debarred from appearing at examinations. The allegations against the students are that the internal pages of the Answer Books of Physics were changed by or at the instance of them after the examination was over. The allegations were denied by the students by filing reply of the show cause notice. The students as well as their guardians appeared before the Examination Committee on 20.5.1995 and on the subsequent dates. After hearing them, the Examination Committee found the students guilty and inflicted the impugned punishment which was communicated by letter dated 23.7.1995 under the signature of Secretary (Examinations).

3. I have heard Mr M R Shah, learned Advocate for the petitioners and Mr P R Joshi for Mr V H Patel appearing for the respondent-Gujarat Secondary Education Board.

4. Mr Ratansingh Manibhai Rathwa, Assistant Secretary has filed affidavit on behalf of the respondent Board. It is stated that while examining the answer papers of Physics by the Examiner, it was found that the first page (cover page) of the answer book was the original one and that the internal pages were changed by removing the pin and inserting new pages. On receiving this information from the examiner, the Board issued notice to the students concerned. The matter was placed before the Examination Committee. The students have admitted their handwriting. After hearing the students and their parents, the Committee arrived at the conclusion that the delinquent students were guilty of misconduct of changing the internal pages of the answer book of physics subject. In view of the conclusions arrived at, the impugned punishment was inflicted.

5. It is contended by Mr M R Shah, learned Advocate for the petitioners that the finding of the Examination Committee that the delinquent students changed the internal pages of the answer book of physics is based on no evidence. He further submits that the report of the Examination Committee was not made available to the petitioners and the impugned order is a non-speaking order. He further submits that the Board has tried to

make out the entire case in the affidavit filed before this Court. On the other hand, Mr V H Patel, learned Advocate for the respondent Board submits that this Court in exercise of powers under Article 226 of the Constitution of India will be loath to interfere in the educational matters and more particularly, matters of unfair means. He further submits that this Court will not go into the sufficiency of evidence.

6. I repeatedly asked the learned Advocate for the respondent Board to show as to what is the exact material on the basis of which the Examination Committee arrived at the conclusion that the internal pages were changed by or at the instance of the delinquent students. He has not been able to show any material. No circumstance has even been pointed out to indicate the guilty of the delinquent students. In fact, there is no evidence to show that there is any change of pages as alleged. It is contended by Mr Patel that the students admitted before the Examination Committee that the changed papers are in their handwriting. I cannot agree with the submission of Mr Patel for the reason that at the first instance there is no material to show that the pages were changed, even otherwise the evidence is innocuous. I have seen the answer book produced before me by the Board. I find nothing unusual on the basis of which any inference can even remotely be drawn that the pages were changed. The cover page and rest of the pages are intact with the pin. It is not in dispute that the Board initially registered the case against 16 students but found no case, except the 3 students in the present three petitions and one more. This fact also indicates that the Board has proceeded on certain impressions only. Thus, the punishment inflicted by the Board in absence of any evidence cannot be sustained.

7. In view of the aforesaid, this group of Special Civil Application is allowed. The impugned order dated 12.7.1995 in Special Civil Application No.6348/95 and 7.6.1995 in Special Civil Application No.6382 and 6467/95 inflicting punishment on the students in each petitions are quashed and set aside.

Rule in each petitions made absolute with no order as to costs.

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